



*Department of Planning, Building and Code Enforcement*

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

**H00-025 & V02-006.** Site Development Permit and Development Variance to allow construction of 10 single-family attached residences with a reduced front setback on a 0.34 gross acre site located at the southeast corner of Northern Road and Cross Way (Richard Shwe, Progressive Construction, Owner/Developer)  
Council District: 6

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

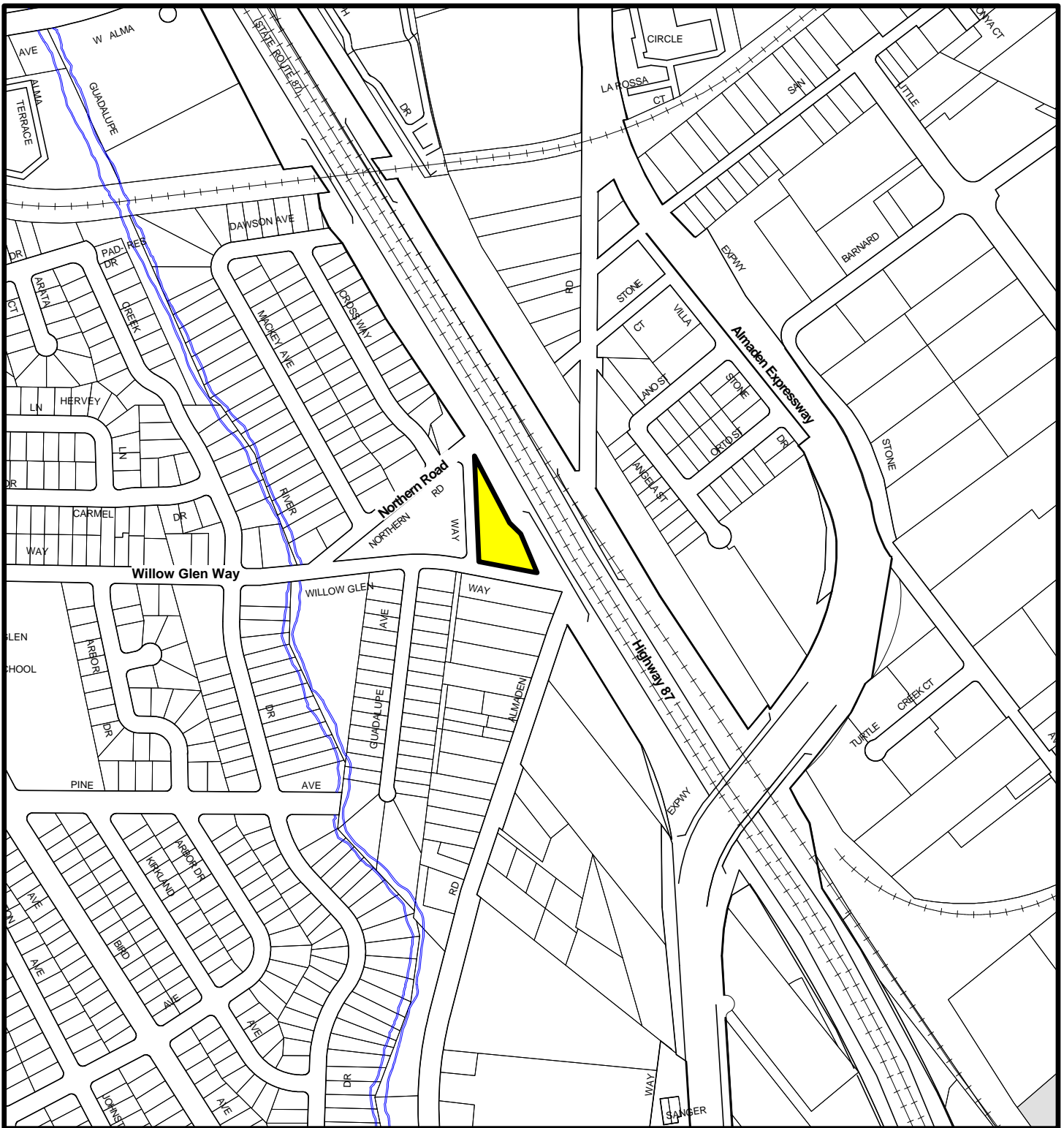
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **September 17, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **August 27, 2003** and ends on **September 17, 2003**.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Willow Glen Branch Library, 1157 Minnesota Avenue, San José, CA 95110 San Jose, and online at [www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm](http://www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm) Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Erin Morris** at (408) 277-4576.

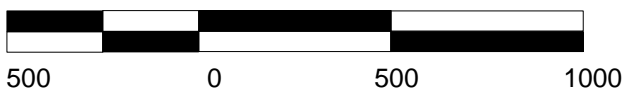
Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

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Scale: 1"=500'



**File No: H00-04-025**

**District: 6**

**Quad No: 99**

**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Cross Way Condominiums

**PROJECT FILE NUMBER:** H00-025 & V02-006

**PROJECT DESCRIPTION:** Site Development Permit and Development Variance to allow construction of 10 single-family attached residences and a reduced front setback.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southeast corner of Northern Road and Cross Way; 434-30-022

**COUNCIL DISTRICT:** 6

**NAME OF APPLICANT:** Richard Shwe, Progressive Construction

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:** P.O. Box 2508, Cupertino, CA 95015

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

1. Air Quality

Prudent precautions should be taken during construction activities. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The

following construction practices should be implemented during all phases of construction on the project site. With the inclusion of these mitigation measures, the short-term air quality impacts associated with construction will be reduced to less-than-significant levels.

- Use dust-proof chutes for loading construction debris onto trucks
- Water to control dust generation during demolition of structures and break-up of pavement
- Cover all trucks hauling demolition debris from the site
- Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind
- Cover all trucks hauling soil, sand, or other loose materials, or require trucks to maintain at least two feet of freeboard
- Sweep daily (preferably with water sweepers) all paved access road, parking areas, and staging areas at construction sites
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- Install sandbags or other erosion control measures to prevent silt runoff to public roadway.
- Replant vegetation in disturbed areas as quickly as possible

## 2. Cultural Resources

There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources.

- a. If no resources are discovered, the archaeologist shall submit a report to the Director of Planning verifying that the required monitoring occurred and that no further mitigation is necessary.
- b. If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)
- c. In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
- d. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines

that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- e. A final report shall be submitted to the Director of Planning prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

### 3. Water Quality

The project will incorporate mitigation measures to minimize urban run-off. The mitigation measures include a storm water run-off management plan for construction activities to satisfaction of Department of Public Works, and compliance with all applicable City, Local, Regional, State and Federal laws. The project shall conform to the City of San Jose National Pollutant Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the *Blueprint for a Clean Bay* to control the discharge of storm water pollutants including sediments associated with construction activities. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City project Engineer. The Erosion Control Plan may include BMPs as specified by the Association of Bay Area Governments' Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements, or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.

### 4. Noise

To achieve interior noise exposures for compliance with 45 dB DNL standards, sound control windows will be required as follows:

- a) Mechanical ventilation shall be provided in conformance with Title 24 and the Uniform Building Code.
- b) Sound control windows shall be utilized as appropriate to achieve interior noise exposures in compliance with 45 dB DNL.
- c) All construction within 500 feet of a residentially-used property shall be limited to 7:00 A.M. to 7:00 P.M., Monday through Friday.

## **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **September 17, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

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Deputy

Adopted on: \_\_\_\_\_

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Deputy

c.c. Sy-Cheng Tsai, T-Square, 3319 Pinnacle Drive, San Jose, CA 95132

## PUBLIC HEARING NOTICE

The Director of Planning, Building and Code Enforcement of the City of San Jose will hold a public hearing on **Wednesday, September 17, 2003**, in accordance with Sections 20.100.190, 20.100.610 and 20.100.1300 of the San Jose Municipal Code.

The public hearing will be held in the City Council Chambers, on the second floor of City Hall, at 801 North First Street, San Jose, California, at **10:00 a.m.**, or as soon thereafter as this item can be heard. You are welcome to attend and to speak on this issue. If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.

The decision of the Director may be appealed to the Planning Commission in accordance with the requirements of the San Jose Municipal Code. Instructions for filing a permit appeal are available from the Department of Planning, Building and Code Enforcement.

The projects being considered are located on the southeast corner of Northern Road and Cross Way, on a 0.34-gross-acre site in the R-M Residence Zoning District (Richard Shwe, Owner/Developer). Council District: 6. CEQA: Negative Declaration.

1. H00-025 SITE DEVELOPMENT PERMIT to allow construction of 10 single-family attached residences.
2. V02-006 DEVELOPMENT VARIANCE to reduce the front setback from 15 feet to 10 feet.

Reports, drawings, and documents for this project are on file and available for review 9:00 a.m. to 5:00 p.m., Monday through Friday at:

Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San Jose, CA 95110  
(408) 277-4576

[www.ci.san-jose.ca.us/planning/sjplan/](http://www.ci.san-jose.ca.us/planning/sjplan/)

A permit and recommendations will be available for your review during the week of the public hearing at the Department of Planning, Building and Code Enforcement.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 277-4576 (Voice) at least 48 hours before the meeting.

Comments and questions are welcome, and should be referred to the Project Manager, **Erin Morris**, of the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project. For your convenience, contact Joe Babiasz at the above telephone number the week of the public hearing to verify that this item will be heard and is not scheduled for deferral to a later date.

Stephen M. Haase, AICP, Director  
Planning, Building, and Code Enforcement

Carol Hamilton, Senior Planner  
Dated: August 26, 2003